IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 649 OF 1993

The State of Maharashtra) ...Appellant.

V/s

Shri Rajendra Damodar Survase)
age 25 years, Occ: Agri.,)
R/o. Mangalwedha, Tal.)
Mangalwedha, Dist. Solapur) ...Respondent.

Mr. K.K. Tated, AGP for the appellant - State.

None for the respondent.

ALONG WITH
FIRST APPEAL NO. 650 OF 1993

The State of Maharashtra) ...Appellant.

V/s

Raosaheb Damodar Survase)
age 23 years, Occ. Agri &)
Trader and residing at)
Mangalwedha, Tal.Mangalwedh,)
Dist. Solapur.) ...Respondent

Mr. K.K. Tated, AGP for the appellant - State.

None for the respondent.

ALONG WITH
FIRST APPEAL NO. 651 OF 1993

The State of Maharashtra) ...Appellant.

V/s

1. Rajendra Damodar Survase)
age 23 years, Occ: Agri &)
Trader, R/o. Mangalwedha,)
Tal. Mangalwedha, District)
Solapur.)
)
2. Gajanan @ Raosaheb Damodar)
Survase, Age 23 years,)
Occ: Agri. & Trader)
R/o. Mangalwedha, Tal.Mangal-)
Wedha, Dist. Solapur) ...Respondents.

Mr. K.K. Tated, AGP for the appellant - State.

None for the respondent.

CORAM: R.M.S. KHANDEPARKAR &
V. M. KANADE, JJ.

DATE : 2nd September, 2005

ORAL JUDGMENT: (Per R.M.S. KHANDEPARKAR, J.)

1. All these appeals arise from common award passed by the Reference Court in Land Acquisition Reference Nos. 53/1990, 62/1990 and 64/1990 on 19/10/1992. The land in question was sought to be acquired on issuance of Notification under section 4 of the Land Acquisition Act on 19/06/1969, 10/07/1969, 24/05/1971 and 24/06/1972. The award under section 11 was declared on 25/09/1986 and notices thereafter under section 12(2) were issued on 16/12/1986. Being dissatisfied with the amount of compensation awarded, the interested persons preferred reference application under section 18 which was allowed by the Reference Court under the impugned award.

2. The Land Acquisition Officer while declaring the award under section 11 had offered compensation at the rate of Rs 1200/- per acre in relation to the land acquired, while offering Rs 200/- in relation to the Potkharab land acquired under the said land

acquisition proceedings. The Reference Court enhanced the said compensation to Rs 2000/- per acre in case of non-irrigated land and Rs 1000/- in case of Potkharab land. Hence, the present appeals.

3. Upon hearing the learned advocate for the appellants and on perusal of the records, it is seen that the Reference Court placing reliance on the Sale Deed at Exhibit-43 which was executed on 11/04/1969 the most proximate to the date of issuance of the first notification under section 4, has enhanced the compensation as stated above. The perusal of the impugned award discloses that the Reference Court, after rejecting all other evidence led by the claimants, has placed reliance on Sale Deed at Exhibit-43 and has granted enhanced compensation. In the circumstances, therefore, the only point which arises for consideration is : whether the Reference Court was justified in enhancing the compensation at the rate at which it has been enhanced on the basis of the Sale Deed at Exhibit-43?

4. Perusal of the impugned award and more particularly in relation to the assessment of the evidence relating to the said Sale Deed reveals that the Reference Court has taken into consideration the

fact that the Sale Deed relates to the date 11/04/1969 while the earlier Notification under section 4 was issued on 19/06/1969. The Reference Court has also taken into consideration the related evidence which disclosed the trend of increase in the prices in the locality over a period of about 15 years from 1969 and after considering the same and taking into consideration other evidence on record has held that the same reveals the price of the land at the relevant time in the locality to be in the range of 1600/- to 3700/-. It has also taken into consideration the price index based on trend of the prices which disclosed upward appreciation of the land value during all those relevant years and, thereafter, has fixed the market value of the land in question at the rate of Rs 2000/- per acre. In fact, the relevant portion of the impugned award justifying the enhancement of the compensation from Rs 1200/- to Rs 2000/- is worth reproducing and it reads thus:-

> "Keeping those oriteria in mind only three sale instances remains for consideration sale-deed exh. 43 is in respect of land survey No.122/1 executed on 11-4-69. Its price comes Rs 3797, whereas price of land

sold vide copy of sale index exh.22 land survey No.556/B comes Rs 2707/- on 30-5-68. Price of land Gat No.586/1 comes Rs 1637/- on 8-8-68. If trend of these prices of land and considering its assessment is about Rs 2/- per acre. Similar to the assessment, land under acquisition even if the land of the petitioners are considered of medium quality lowest sale index on record vide copy of index exh. 23 is on record. Its price comes Rs 1637/- per acre. If reasonable increase for period of one year is given it price at the time of insurance notification u/s. 4(1) would be Rs 1800/- per acre. Considering these trend of prices in copy of index exh.22 and sale-deed exh.43 in respect of unirrigated lands itself reasonable the market price of the petitioners land would have been Rs 2000/- per acre. The land acquisition officer has not considered any of those sale-deeds clearly. There is no reference of particular sale-deed. However, if the sale-deeds for three years from 1966 to 1969 would have been reported by the Talathi and have been discussed in the award, those sale-deeds must have been before land acquisition officer, but

those were not specifically taken into consideration in the table of the sale-deeds grouping lands as per assessment for the determining compensation amount. Considering relevant period of execution of sale-deed, and these sale-deeds are in respect of unirrigated land, in my opinion, are in respect of unirrigated land, in my opinion, reasonable the market prices of the petitioner lands even considering lowest sale-deed would have been Rs 2000/- per acre."

5. In fact, the above quoted appreciation of evidence justifying the enhancement at the rate of Rs 2000/- does not require further appreciation of the material on record. The said appreciation clearly discloses the same to be in proper perspective and after taking into consideration all the relevant materials which are to be considered for the purpose of fixing of the market value in relation to the land acquired. At the same time, it is also pertinent to note that while considering the said materials to justify the enhancement, the Reference Court has also discarded the other evidence by giving justifiable reasons for discarding such evidence. Indeed, the impugned award does not call for any interference nor it requires

fresh appreciation of evidence on record. However, even if one peruses the entire evidence on record, it obviously discloses that Exhibit-43 clearly justifies enhancement at the rate of Rs 2000/- for per acre in relation to the land in question. The land in question is clearly comparable with the land which was the subject matter of Exhibit-43, apart from the fact that the said Sale Deed was most proximate in time with the Notification issued under section 4 and the quality of the land which was the subject matter of the said Sale Deed was similar to the land acquired in the case in had as has been observed by the Reference Court. Being so, on all counts, there is absolutely no justification for interference in the assessment pertaining to the market value of the land in question by the Reference Court and it has granted just and appropriate compensation for the land acquired.

6. As regards the Potkharab land, it is already a settled principle that unless there are justifiable reasons, for the valuation of such Potkharab land a normal course should be 50% of the other land acquired in the proceedings. Considering the same, the compensation awarded at the rate of Rs 1000/- for Potkharab cannot be found fault with.

7. For the reasons stated above, therefore, there is no case for interference with the impugned award. Appeals, therefore, fail and the same are dismissed with costs.

(R.M.S. KHANDEPARKAR, J.)

(V.M. KANADE, J.)